

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ERICA ANDREA MCRAE,

Plaintiff,

v.

HUGHES GROUP, LLC,

Defendant.

CASE NO. C19-5753 BHS

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS AND REVOKING
PLAINTIFF'S *IN FORMA*
PAUPERIS STATUS FOR
PURPOSES OF APPEAL

This matter comes before the Court on Defendant Hughes Group, LLC's ("Hughes Group") motion to dismiss. Dkt. 14.

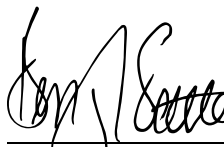
On August 13, 2019, Plaintiff Erica Andrea McRae ("McRae") filed a motion to proceed *in forma pauperis* and proposed complaint against Hughes Group alleging claims of employment discrimination. Dkts. 1, 1-1. On October 15, 2019, the Court granted her motion after she corrected some deficiencies in her affidavit and accepted her complaint. Dkt. 4. On February 13, 2020, the Court ordered McRae to show cause why the complaint has not been served within 90 days of filing. Dkt. 11. On March 9, 2020, McRae responded, stated that she had recently mailed the complaint, and requested an extension of time to serve. Dkt. 12.

1 On April 7, 2020, Hughes Group filed the instant motion requesting dismissal for
2 failure to timely perfect service. Dkt. 14. McRae did not respond, which the Court
3 considers an admission that the motion has merit. Local Rules W.D. Wash. LCR 7(b)(2).
4 On May 1, 2020, Hughes Group replied. Dkt. 16.

5 In this case, the Court agrees with Hughes Group that McRae has failed to timely
6 perfect service. The remaining issue is whether to dismiss the complaint without
7 prejudice or grant McRae an extension of time to perfect service. If service is not made
8 within 90 days, the Court “must dismiss the action without prejudice against that
9 defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).
10 Even if McRae responded and requested additional time, she must show good cause for
11 her failures, which requires a showing that “(a) the party to be served received actual
12 notice of the lawsuit; (b) the defendant would suffer no prejudice; and (c) plaintiff would
13 be severely prejudiced if [her] complaint were dismissed.” *Sebastian Brown Prods., LLC*
14 *v. Muzooka, Inc.*, 143 F. Supp. 3d 1026, 1035 (N.D. Cal. 2015). There is no showing in
15 the record to establish good case. Therefore, the Court **GRANTS** Hughes Group’s
16 motion, **DISMISSES** McRae’s complaint without prejudice, and **REVOKES** McRae’s
17 *in forma pauperis* status for purposes of appeal.

18 **IT IS SO ORDERED.**

19 Dated this 19th day of June, 2020.

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22 BENJAMIN H. SETTLE
United States District Judge